

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JUAN VENTURA,)	
)	
Petitioner,)	
)	CIVIL ACTION NO.
VS.)	
)	3:07-CV-0471-G
UNITED STATES OF AMERICA,)	
)	ECF
Respondent.)	

ORDER OF THE COURT ON THE FOREGOING RECOMMENDATION

Considering the record in this case and the above recommendation, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the court hereby finds and orders:

IFP STATUS:

- (X) the party appealing is **GRANTED** *in forma pauperis* status on appeal.
- () the party appealing is **DENIED** *in forma pauperis* status on appeal for the following reasons:
- () the court certifies, pursuant to FED. R. APP. P. 24(a) and 28 U.S.C. § 1915 (a)(3), that the appeal is not taken in good faith. In support of this finding, the court incorporates by reference the Magistrate Judge's findings and recommendation filed on _____. Based upon the Magistrate Judge's findings, this court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. See *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S. D. Miss. 1996) (citing *Howard v. King*, 707 F. 2d 215, 219-20 (5th Cir. 1983)).
- () the person appealing is not a pauper;

- () the person appealing has not complied with the requirements of Rule 24 of the Federal Rules of Appellate Procedure and /or 28 U.S.C. § 1915(a)(1) as ordered by the court. (See Notice of Deficiency and Order filed on _____).
- () the party appealing paid the appellate filing fee on _____.

COA:

- () a Certificate of Appealability is GRANTED on the following issues: _____.
- (X) a Certificate of Appealability is **DENIED**. The court hereby adopts and incorporates by reference the Magistrate Judge's findings and recommendation filed in this case on August 20, 2007, in support of its finding that petitioner has failed to demonstrate that reasonable jurists would find it debatable whether the district court erred in dismissing the § 2255 motion as successive. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000).

September 25, 2007.



A. JOE FISH
CHIEF JUDGE